



October 1, 2002

Mr. Pete Eckert
Caso, Egelston & Eckert, L.L.P.
10246 Midway Road, Suite 202
Dallas, Texas 75229

OR2002-5522

Dear Mr. Eckert:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 170018.

The City of Rockwall ("city") received a request for the names, addresses and phone numbers of all water utility customers who had their service newly connected during a specified time period. You have submitted to this office a representative sample of records containing information responsive to this request. You claim that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. This letter only addresses the three items of information requested. We note that any other information in the submitted documents is nonresponsive and may be withheld as such. We have considered the exception you claim and reviewed the submitted samples of information.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes, such as section 182.052 of the Utilities Code, which provides in pertinent part:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the records containing the requested information as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052.

The instant request seeks the names, addresses and phone numbers of certain water utility customers. You state that some of the information responsive to this request lies in account records for which customers requested confidentiality in accordance with section 182.052. *See* Open Records Decision No. 625 (1994) (construing statutory predecessor).

It is important to note that section 182.052 confidentiality does not encompass the name on an account. The phrase "personal information" as used in section 182.052(a) refers only to an individual's address, telephone number, or social security number. *See* Util. Code § 182.051(4). Because none of the exceptions to confidentiality listed in section 182.054 appear to be applicable, the city must withhold the addresses and phone numbers of customers who requested confidentiality. Because an individual's name does not meet the definition of "personal information," this information is not confidential under section 182.052(a). As you make no other argument for withholding individual customers' names, we note that *all* of the requested names must be released. Finally, because you offer no grounds for withholding any responsive information located in records for which customers did not request confidentiality, we find that the names, addresses, and phone numbers in such records must be released.

We need not address your argument regarding the confidentiality of the social security numbers contained in the submitted documents. Because the requestor specifically asked only for the name, addresses and phone numbers of certain water utility customers, you may withhold from disclosure any social security numbers contained in the submitted documents as such information is not responsive to the instant request.

In summary, the city must release all of the names requested. The city must also release the addresses and phone numbers of those water utility customers who failed to request

confidentiality; in contrast, the addresses and phone numbers of those customers who requested confidentiality must be withheld.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, *no writ*).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Tate Self".

Jon Tate Self
Assistant Attorney General
Open Records Division

JTS/seg

Ref: ID# 170018

Enc. Submitted documents

c: Mr. Bill Fawcett
501 Brazos
Forney, Texas 75126
(w/o enclosures)